

**IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MASSACHUSETTS**

MORTGAGE ELECTRONIC REGISTRATION)
SYSTEMS, INC.)
Plaintiff,)
v.)
THE ESTATE OF TIMOTHY BARLOW, LORI A.)
BARLOW, THE COMMONWEALTH OF)
MASSACHUSETTS, DEPT. OF REVENUE, and)
UNITED STATES OF AMERICA,)
Defendants.)

05-40112-FDS

**UNITED STATES OF AMERICA'S REQUEST
TO ENLARGE TIME TO ANSWER OR RESPOND**

The defendant United States of America has removed this action from state court. The defendant United States hereby respectfully requests this Court to enter an order enlarging, to and including Friday, August 12, 2005, the time in which the United States shall be permitted to serve an answer, a motion, or such other response as may be permitted by the Federal Rules of Civil Procedure, with respect to the complaint in the above-titled action.

No memorandum is submitted in support of this request as it is not a motion. As provided by Rule 6(b)(1) of the Federal Rules of Civil Procedure, the district court has discretion to grant requests to enlarge time "*without motion or notice before the expiration of the period.*" (Emphasis added.) In contrast, Rule 6(b)(2) limits enlargements to the granting of *motions* made upon grounds of excusable neglect. Accordingly, here we are making a timely request under Rule 6(b)(1).

In making this request, we note that Rule 81(c) of the Federal Rules of Civil Procedure governs the procedure in civil actions removed from the state courts to the United States District

Courts. Rule 81(c) first provides that the Federal Rules of Civil Procedure apply to removed cases. The Rule goes on to prescribe certain periods for the service of an answer or other defenses. The governing time period under Rule 81(c) may be as short as five days after removal. Plaintiff's complaint is brought under 28 U.S.C. § 2410 as an action affecting property on which the United States has a lien. Pursuant to 28 U.S.C. § 2410(b), the United States may appear and answer, plead or demur within sixty days after service or such other time as the court may allow. See 28 U.S.C. § 2410(b). The undersigned trial counsel represents that more than five days are required to prepare and to serve an appropriate response raising the United States' defenses. The period of additional time requested is commensurate with the 60-day period permitted under Section 2410(b), as service was made on the United States on, or about, June 13, 2005.

Therefore, the United States requests the appropriate sixty-days in which to answer or otherwise respond to the complaint, up to and including Friday, August 12, 2005.

I hereby certify that a true copy of the above document was served upon (each party appearing *pro se* and) the attorney of record for each other party by mail on

July 7, 2005

BARBARA HEALY SMITH
United States Attorney's Office
One Courthouse Way
Suite 9200
Boston, Massachusetts 02210

MICHAEL J. SULLIVAN
United States Attorney

BARBARA HEALY SMITH
Assistant United States Attorney

Gerald C. Miller
LYDIA BOTTOOME TURANCHIK
GERALD C. MILLER
Trial Attorneys, Tax Division
U.S. Department of Justice
P. O. Box 55, Ben Franklin Station
Washington, D.C. 20044-0055
Telephone: (202) 307-6560 (LBT)
(202) 307-6490 (GCM)
e-mail: Lydia.D.Bottome@usdoj.gov
Gerald.C.Miller@usdoj.gov

Service List

David J. Rhein, Esquire
David M. Rosen, Esquire
Harmon Law Offices, P.C.
P.O. Box 610389
Newton Highlands, MA 02461-0389

Eileen Ryan McAuliffe, Esquire
Commonwealth of Massachusetts
Department of Revenue
Post Office Box 9565
Boston, MA 02114-9565